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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Harumi Anne Kuno	§	Art Unit:	2453
		§		
Serial No.:	10/003,349	§	Confirmation No.:	5233
		§		
Filed:	12/06/2001	§	Examiner:	Philip J. Chea
		§		
For:	TRANSFORMATIONAL	§	Atty. Dkt. No.:	10018402-1
	CONVESRATION	§		(HPC.0747US)
	DEFINITION LANGUAGE	§		

Mail Stop Amendment

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO WITHDRAW HOLDING OF
ABANDONMENT BASED ON FAILURE TO RECEIVE NOTIFICATION OF
NON-COMPLIANT APPEAL BRIEF DATED DECEMBER 27, 2007

Dear Sir:

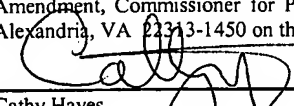
This is a Petition to Withdraw the Holding of Abandonment of this application in the Notice of Abandonment mailed February 5, 2009, based on failure to receive the Notification of Non-Compliant Appeal Brief mailed on December 27, 2007. This Petition is filed in accordance with 37 C.F.R. § 1.181 and M.P.E.P. § 711.03(c)(I)(A).

The Notice of Abandonment, dated February 5, 2009, indicated that Applicant failed to timely file a proper reply to the Notification mailed on December 27, 2007.

As established by the attached Declaration of Joseph G. Swan and Declaration of Michael J. Kraft, Hewlett-Packard failed to receive the Notification of Non-Compliant Appeal Brief mailed on December 27, 2007.

The Power of Attorney filed in this case indicates that U.S. PTO correspondence was to be addressed to:

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, Colorado 80527-2400

Date of Deposit	4-6-09
I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated above.	
	
Cathy Hayes	

This correspondence address was properly used in Office Actions mailed March 1, 2005, August 19, 2005, January 3, 2006, and July 3, 2006. Then, without any request submitted by the Applicant, the U.S. Patent and Trademark Office changed the correspondence address to:

Mitchell Silverberg and Knupp, LLP
11377 West Olympic Boulevard
Los Angeles, CA 90064.

In the 2005-2007 time frame, the patent attorney who represented the Assignee of the present application (Hewlett-Packard) in prosecuting the above-referenced matter was Joseph G. Swan. Mr. Swan submitted several papers in the 2005-2007 time frame, including the Appeal Brief dated December 9, 2007.

As stated by the Declaration of Joseph G. Swan (attached hereto), Mr. Swan is currently with the law firm of Joseph G. Swan, a professional corporation. Swan Declaration, ¶ 1. Mr. Swan's professional corporation was a partner in the law firm of Mitchell Silverberg and Knupp, LLP (hereinafter the "Mitchell Law Firm"). *Id.*, ¶ 2. However, Mr. Swan's professional corporation terminated its partnership in the Mitchell Law Firm in August 2006. *Id.* At the time Mr. Swan prepared and filed the Appeal Brief, Mr. Swan was no longer associated with the Mitchell Law Firm. *Id.*, ¶ 3. When the Notification dated December 27, 2007 was sent to the Mitchell Law Firm, Mr. Swan was no longer with the Mitchell Law Firm. In fact, as of the date of mailing of the notification dated December 27, 2007, Mr. Swan had already terminated his relationship with the Mitchell Law Firm for about 16 months.

Thus, it is clear that the Notification dated December 27, 2007 was sent to the wrong correspondence address, and in fact, was sent to an address that was no longer associated with the prosecuting attorney of the present application. Mr. Swan has conducted a search of his records pertaining to this application, and Mr. Swan has stated that at no point did Mr. Swan receive or see the Notification dated December 27, 2007, or any copy thereof. Swan Declaration, ¶ 5. In fact, Mr. Swan was not aware that any such Notification had been sent prior to having been informed of such Notification by Hewlett-Packard on March 23, 2009. *Id.*

Since Mr. Swan never received the Notification dated December 27, 2007, Mr. Swan was not able to provide any copy of such Notification to Hewlett-Packard.

Moreover, Hewlett-Packard has also conducted a search to determine whether Hewlett-Packard had received a copy of the Notification dated December 27, 2007. The search indicates that Hewlett-Packard also did not receive the Notification dated December 27, 2007, and in fact, was not aware of such Notification until the Notice of Abandonment was sent by the Examiner on February 5, 2009.

The accompanying Declaration of Michael J. Kraft, a Patent Paralegal for the Hewlett-Packard Corporate Legal Department, evidences that Hewlett-Packard maintains an electronic mail log record of formal papers received from the Patent and Trademark Office addressed to the Hewlett-Packard, Intellectual Property Administration. The mail log record (Appendix A to Declaration of Joseph G. Swan) includes a record of the application number, a "mailing date" which in the case of a U.S. PTO Notification of Non-Compliant Appeal Brief is the date mailed by the U.S. PTO, and the date of receipt by Hewlett-Packard. Appendix A to the Declaration of Joseph G. Swan is a copy of the Hewlett-Packard Legal Department mail log listing the documents with a mailing date of between December 27, 2007, and January 27, 2008. There is no entry for application Serial No. 10/003,349 (the present case).

Also, Appendix B to the Declaration of Joseph G. Swan, which is the image file wrapper (individual docket report) maintained by the Hewlett-Packard Legal Department for this case, establishes that the Notification of Non-Compliant Appeal Brief dated December 27, 2007 was not received.

The attached documentation establishes that Hewlett-Packard maintains a docketing system that is sufficiently reliable. After a review of the electronic mail log that lists all received U.S. PTO correspondence in the period between December 27, 2007 and January 27, 2008, and a review of the file wrapper individual docket report for this case kept by Hewlett-Packard, it has been established that the Notification of Non-Compliant Appeal Brief dated December 27, 2007 was not received by Hewlett-Packard.

In view of the foregoing, withdrawal of the holding of abandonment is respectfully requested, and re-mailing of a new Notification of Non-Compliant Appeal Brief is requested. No fee is believed to be due. However, if a fee is required, the Commissioner is authorized to charge any additional fees and/or credit any overpayment to Deposit Account No. 08-2025 (10018402-1)

Respectfully submitted,



Date: April 6, 2009

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